

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 ERDA-05 AID-05 CEA-01 CIAE-00

CIEP-01 COME-00 DODE-00 FPC-01 H-02 INR-07 INT-05

L-03 NSAE-00 NSC-05 OMB-01 PM-03 USIA-06 SAM-01

OES-03 SP-02 SS-15 STR-04 TRSE-00 FRB-03 FEA-01 PRS-01

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P R 081019Z JUL 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 2645

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LUXEMBOURG

AMEMBASSY ROME

AMEMBASSY PARIS

AMEMBASSY THE HAGUE

USMISSION EC BRUSSELS

USMISSION OECD PARIS

AMEMBASSY OSLO

C O N F I D E N T I A L SECTION 01 OF 02 LONDON 10370

E.O. 11652: GDS

TAGS: ENRG, UK

SUBJECT: NORTH SEA OIL: PETROLEUM AND SUBMARINE

PIPELINE BILL

REF: LONDON 9815, 9197, 8739, 6782, 6452, 5944 AND 5478

SUMMARY: THE GOVERNMENT PLANS TO CURTAIL CONSIDERATION
OF PETROLEUM AND SUBMARINE PIPELINE BILL IN ORDER TO
CLEAR LEGISLATIVE CALENDAR AND SECURE ENACTMENT IN
OCTOBER. US OIL COMPANY REPRESENTATIVES WITH WHOM WE
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HAVE DISCUSSED LEGISLATION URGE FORMAL REPRESENTATION

BY USG. WE INTEND FURTHER APPROACH TO UKG AS SOON AS POSSIBLE AND MAY THEN PROPOSE FORMAL REPRESENTATION. END SUMMARY.

1. ON JULY 2 THE BRITISH GOVERNMENT ANNOUNCED THAT, UNDER A GUILLOTINE PROCEDURE, IT WOULD SEEK TO COMPLETE ACTION IN THE HOUSE OF COMMONS ON THE PETROLEUM AND SUBMARINE PIPELINES BILL BY THE END OF JULY. THE BILL WOULD ESTABLISH A BRITISH NATIONAL OIL COMPANY (BNOC), PLACE CONSIDERABLE POWER IN THE HANDS OF THE SECRETARY OF STATE FOR ENERGY, AND EFFECT CHANGES IN EXISTING LICENSES. IT HAS BEEN STRONGLY OPPOSED BY BOTH THE OIL INDUSTRY AND THE CONSERVATIVE OPPOSITION. ACTING SINGLY OR IN CONCERT, OPPONENTS HAVE SECURED GOVERNMENT AGREEMENT TO SOME AMENDMENTS DURING THE CONSIDERATION OF THE BILL BY A COMMONS STANDING COMMITTEE. ALTHOUGH THE CONSERVATIVES PLAN TO ATTACK THE GOVERNMENT'S DECISION TO LIMIT CONSIDERATION OF THE BILL, THE GOVERNMENT IS LIKELY TO BE ABLE TO KEEP TO ITS NEW TIMETABLE. OPPORTUNITIES TO AMEND THE BILL WILL BE SUBSTANTIALLY REDUCED WHEN COMMITTEE CONSIDERATION ENDS.

2. LAST WEEK WE INVITED SENIOR AMERICAN EXECUTIVES FROM SIX US FIRMS ACTIVE IN NORTH SEA (ESSO, TEXACO, MOBIL, GULF, AMOCO AND HAMILTON BROTHERS -- SOME OTHERS WHOM WE INVITED WERE UNABLE TO ATTEND) TO MEET IN THE EMBASSY JULY 3 TO DISCUSS PIPELINE BILL. E/C MIN OPENED MEETING BY SUMMARIZING CONTINUING USG INTEREST IN NORTH SEA OPERATIONS AND CLOSE AND CONTINUING CONTACTS BETWEEN EMBASSY AND COMPANIES AND EMBASSY AND BRITISH GOVERNMENT ON PETROLEUM MATTERS. HE NOTED THAT GOVERNMENT DECISION TO SPEED UP ACTION ON PETROLEUM BILL MEANS THAT LITTLE TIME IS LEFT TO AMEND PROPOSED PROVISIONS AND INVITED COMMENT FROM COMPANY REPRESENTATIVES. VIEWS OF EACH VARIED IN SCOPE AND INTENSITY, BUT THERE WAS AGREEMENT THAT PROVISIONS OF BILL WHICH CHANGE EXISTING LICENSES ARE HIGHLY OBJECTIONABLE; THAT ENACTMENT IN ITS PRESENT FORM WOULD INCREASE THE UNCERTAINTY AND REDUCE THE PACE OF DEVELOPMENT IN THE NORTH SEA; AND THAT THE USG SHOULD MAKE A CLEAR AND STRONG STATEMENT TO THE BRITISH

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GOVERNMENT OBJECTING TO UNILATERAL AMENDMENT OF LICENSES WITHOUT PROVISION FOR ARBITRATION OR COMPENSATION.

3. ESSENCE OF OIL COMPANIES ARGUMENT IS THAT SEVERAL PROVISIONS OF BILL WOULD CHANGE CONDITIONS OF EXISTING LICENSES. THESE PROVISIONS INCLUDE PARTICULARLY POWERS OF SECRETARY OF STATE FOR ENERGY WITH RESPECT TO EXPLORATION, DEVELOPMENT AND DEPLETION, AND VARIOUS PIPELINE

ACTIVITIES. SECSTATE COULD, FOR INSTANCE, REQUIRE COMPANIES TO UNDERTAKE EXPLORATORY OR DEVELOPMENT DRILLING AGAINST THEIR WISHES AND JUDGMENT OR TO SLOW DOWN DEPLETION. THESE POWERS COULD BE EXERCISED, UNDER PENALTY OF LOSS OF LICENSE, WITHOUT ADEQUATE RIGHTS OF APPEAL AND WITHOUT COMPENSATION FOR RESULTANT FINANCIAL LOSS. TO BE SPECIFIC, IT IS UNDERSTOOD THAT BILL AS NOW WRITTEN WOULD GIVE RIGHT TO ASK FOR ARBITRATION IF COMPANY OBJECTS TO EXPLORATION ORDER AND STANDARD OF JUDGMENT WOULD BE PRESUMED PRACTICE OF "COMPETENT OPERATOR", WHICH OF COURSE COULD BE SUBJECT TO VARYING INTERPRETATIONS. DEVELOPMENT AND DEPLETION ORDERS WOULD NOT BE SUBJECT TO APPEAL OR ARBITRATION AT ALL, NOR TO

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COMPENSATION, THOUGH SOME PROTECTION ON DEPLETION WOULD BE PROVIDED BY MAXIMUM AND MINIMUM PRODUCTION LIMITS. NET EFFECT IS REVISION OF CONDITIONS OF LICENSE, I.E. BREACH OF CONTRACT, WITHOUT COMPENSATION.

4. OIL COMPANY REPRESENTATIVES ALSO ARGUE THAT MERE PASSAGE OF LEGISLATION, AS OPPOSED TO IMPLEMENTING ACTIONS, WILL CONSTITUTE BREACH OF CONTRACT AND WILL REDUCE VALUE OF LICENSE. WHILE WE ARE NOT SURE OF CONFIDENTIAL

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CORRECTNESS OF FIRST POINT, THERE DOES SEEM TO BE GOOD CASE THAT BREACH OF CONTRACT WOULD BE INVOLVED IN IMPLEMENTATION OF LEGISLATION.

5. WHILE OIL COMPANY REPRESENTATIVES FEEL THAT THEIR EFFORTS HAVE RESULTED IN SOME IMPROVEMENTS IN BILL SINCE IT ORIGINALLY SURFACED (E.G. ARBITRATION PROVISION FOR EXPLORATIONS) THEY THINK THEY HAVE REACHED THE END OF THE LINE AND URGE THAT THE USG MAKE REPRESENTATIONS, WHICH THEY THINK SHOULD BE FORMAL AND IN WRITING RATHER THAN A CONTINUATION OF THE VERY INFORMAL REPRESENTATIONS WE HAVE MADE TO DATE. THEY WOULD CONCENTRATE ON BREACH OF CONTRACT WITHOUT COMPENSATION. THEY SAY DEPARTMENT OF ENERGY OFFICIALS HAVE LISTENED BUT MADE NO SUBSTANTIVE RESPONSE TO THEIR ALLEGATIONS OF BREACH OF CONTRACT (NOR HAVE THEY GIVEN THE EMBASSY ANY EXPLANATIONS, THOUGH WE HAVE NOT CONCENTRATED ON THIS PHRASE).

6. IN RESPONSE TO OUR QUESTIONS, OIL REPRESENTATIVES SAID EFFECT OF PASSAGE OF BILL IN PRESENT FORM WOULD BE TO PROLONG UNCERTAINTIES REGARDING GOVERNMENT'S INTENTIONS IN NORTH SEA. WIDE RANGE OF OPTIONS OPEN TO GOVERNMENT IN ANY GIVEN SITUATION AND FACT GOVERNMENT NEED NOT DECIDE ON SPECIFIC OPTION UNTIL SITUATION REQUIRING ACTION ARISES MAKE IT IMPOSSIBLE TO QUANTIFY EFFECT OF LEGISLATION. HOWEVER, IT APPEARS TO US COMPANIES REPRESENTED AT MEETING THAT INDUSTRY WOULD SEEK TO REDUCE ITS VULNERABILITY TO ACTIONS IT COULD NOT FORESEE AND THAT COST OF INVESTMENT CAPITAL, GIVEN INCREASED RISKS INHERENT IN UNCERTAIN SITUATION, WOULD RISE.

8. COMMENT: IN VIEW OF GOVERNMENT'S NEW TIGHT TIME

SCHEDULE, ANY ACTION WE TAKE WILL HAVE TO BE TAKEN SOON
TO HAVE ANY POSSIBLE EFFECT ON LEGISLATION. WE INTEND
TO MAKE A FURTHER ORAL APPROACH TO THE DEPARTMENT OF
ENERGY AS SOON AS POSSIBLE (E/C MIN HAS APPOINTMENT WITH
PARLIAMENTARY UNDER SECRETARY JOHN SMITH WEDNESDAY AFTER-
NOON) TO OUTLINE OUR CONCERN ABOUT THE DISSATISFACTION
OF THE AMERICAN COMPANIES OPERATING IN THE NORTH SEA AND
PARTICULARLY THE REVISION OF CONDITIONS OF LICENSING
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WHICH WILL RESULT FROM THE BILL AND THE LACK OF PRO-
VISIONS FOR ARBITRATION OR COMPENSATION. WE WOULD ALSO
NOTE THE EXPECTATION OF THE COMPANIES THAT THESE PRO-
VISIONS, IF ENACTED, WOULD FURTHER REDUCE THE PACE OF
DEVELOPMENT IN THE NORTH SEA AT A TIME WHEN ENERGY
CONSUMERS IN THE IEA SHOULD BE SEEKING EVERY POSSIBLE
MEANS TO INCREASE THE AVAILABILITY OF NEW SOURCES OF
ENERGY. IF SUCH AN APPROACH DOES NOT PUT THE MATTER IN
A DIFFERENT LIGHT, WE ARE INCLINED TO PROPOSE A FORMAL,
WRITTEN COMMUNICATION TO THE UKG. ACTION REQUESTED:
SINCE TIME IS SHORT, WE WOULD APPRECIATE THE DEPARTMENT'S
PRELIMINARY CONSIDERATION OF A WRITTEN COMMUNICATION AND
ANY COMMENT OR GUIDANCE THE DEPARTMENT MAY CARE TO GIVE.

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